

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

MILWAUKEE ELECTRIC TOOL  
CORPORATION, et al.,

*Plaintiffs,*

v.

SNAP-ON INCORPORATED,

*Defendant.*

Case No. 2:14-CV-01296

Hon. J.P. Stadtmueller

**DECLARATION OF ANDREW M. MEERKINS IN SUPPORT OF  
SNAP-ON INCORPORATED'S MEMORANDUM IN SUPPORT OF ITS  
MOTION FOR SUMMARY JUDGMENT OF INVALIDITY AND NO  
PRE-SUIT DAMAGES**

I, Andrew M. Meerkins, declare as follows:

1. I am an associate at the law firm of Shook, Hardy & Bacon, LLP, 111 S. Wacker Dr., Chicago, IL 60606 and an attorney for Defendant Snap-on Incorporated in this litigation. I have personal knowledge of the facts set forth herein and can testify competently thereto.

2. Attached hereto as Exhibit A is a true and correct copy of U.S. Patent No. 7,554,290.

3. Attached hereto as Exhibit B is a true and correct copy of U.S. Patent No. 7,999,510.

4. Attached hereto as Exhibit C is a true and correct copy of U.S. Patent No. 7,944,173.

5. Attached hereto as Exhibit D is a true and correct copy of the September 2, 2015 Declaration of Dr. Yet-Ming Chiang in Support of Snap-on Incorporated's Motion for Summary Judgment filed on July 31, 2015.

6. Attached hereto as Exhibit E is a true and correct copy of the July 30, 2015 Declaration of Dr. Yet-Ming Chiang in Support of Snap-on Incorporated's Motion for Summary Judgment filed on July 31, 2015.

7. Attached hereto as Exhibit F is a true and correct copy of U.S. Provisional App. 60/440,692.

8. Attached hereto as Exhibit G is a true and correct copy of U.S. Provisional App. 60/523,712.

9. Attached hereto as Exhibit H is a true and correct copy of U.S. Provisional App. 60/440,693.

10. Attached hereto as Exhibit I is a true and correct copy of U.S. Provisional App. 60/523,716.

11. Attached hereto as Exhibit J is a true and correct copy of excerpts from the transcript of the February 2, 2016 deposition of George Blomgren.

12. Attached hereto as Exhibit K is a true and correct copy of an Advanced Research Discovery Report (Q4 2002) marked with the bates numbers METCO0101942-63.

13. Attached hereto as Exhibit L is a true and correct copy of MET's Advanced Engineering Department's Feasibility Study Report marked with the bates numbers METCO0036905-27.

14. Attached hereto as Exhibit M is a true and correct copy of excerpts from the transcript of the June 27, 2017 deposition of Jan Reimers.

15. Attached hereto as Exhibit N is a true and correct copy of excerpts from the transcript of the July 7-8, 2015 deposition of Gary Meyer.

16. Attached hereto as Exhibit O is a true and correct copy of excerpts from the

transcript of the April 26, 2017 deposition of Jay Rosenbecker.

17. Attached hereto as Exhibit P is a true and correct copy of excerpts from the transcript of the May 23, 2017 deposition of Dennis Grzybowski.

18. Attached hereto as Exhibit Q is a true and correct copy of the March 19, 2009 Declaration of Gary Meyer along with Test Results from the File History for Serial No. 11/780,829 marked with the bates numbers METCO0000219–293.

19. Attached hereto as Exhibit R is a true and correct copy of the October 17, 2001 e-mail from Gary Meyer to Blair Tweten marked with the bates number METCO0033159–60 and DDX42.<sup>1</sup>

20. Attached hereto as Exhibit S is a true and correct copy of the October 17, 2001 e-mail from Gary Meyer to Diethard Fohr marked with the bates number METCO00119293.

21. Attached hereto as Exhibit T is a true and correct c copy of the November 12, 2001 e-mail from David Selby to Diethard Fohr marked with the bates number METCO0189078.

22. Attached hereto as Exhibit U is a true and correct copy of Webster's II New College Dictionary (2001) definition of "Support" marked with the bates numbers SNPON0032405–07.

23. Attached hereto as Exhibit V is a true and correct copy of Webster's Third New Int'l Dictionary (2002) definition of "Support" marked with the bates numbers SNPON0032408–10.

24. Attached hereto as Exhibit W is a true and correct copy of excerpts from the December 8, 2004 presentation by MET to Lowe's marked with the bates number METCO0104534.

25. Attached hereto as Exhibit X is a true and correct copy of an excerpt from the

---

<sup>1</sup> Cites to "DDX" refer to the consecutively numbered exhibits used at depositions noticed by the Snap-on or Chervon.

article entitled *The Development of Lithium-ion Secondary Battery Systems for EV and HEV* by Yoshi Nishi *et al.*, marked with the bates number SNPON007361.

26. Attached hereto as Exhibit Y is a true and correct copy of an excerpt from the article entitled *Design Considerations for Lithium-ion Cells* by Mark Juzkow *et al.*, marked with the bates number SNPON0075856.

27. Attached hereto as Exhibit Z is a true and correct copy of excerpts from the presentation to MET entitled *Technical Meeting Battery 884* marked with the bates numbers METCO0103072–105 and DDX7.

28. Attached hereto as Exhibit AA is a true and correct copy of excerpts from the transcript of the June 23, 2017 deposition of Mark Reid.

29. Attached hereto as Exhibit BB is a true and correct copy of the presentation to MET entitled *Large Cell Cylindrical Applications* marked with the bates numbers MOLI01923–36.

30. Attached hereto as Exhibit CC is a true and correct copy of the presentation to Bosch entitled *Bosch 24V Power Tools Presentation* marked with the bates numbers MOLI01923–36, DDX140 and DDX141A.<sup>2</sup>

31. Attached hereto as Exhibit DD is a true and correct copy of an e-mail chain including the July 25, 2001 e-mail from Chad Kolowrat to Arthur LaMountain marked with the bates numbers METCO0241725–26 and DDX8.

32. Attached hereto as Exhibit EE is a true and correct copy of the presentation to Bosch entitled *Bosch 24V Power Tools Presentation*, modified and sent to MET, and marked

---

<sup>2</sup> DDX cites that include a separate “A” designation are native or color versions of all or part of a deposition exhibit and which are included along with the production copies of the documents. The “A” versions of documents are combined with the original document as part of a single exhibit. Where native or color versions are used, it is generally because the production copy was difficult to read or view.

with the bates numbers METCO0123706–711 and DDX86.

33. Attached hereto as Exhibit FF is a true and correct copy of a presentation by E-One Moli employee Dr. Ulrich von Sacken entitled *Power 2000*, which was sent to MET, and is marked with the bates numbers MOLI0000157–71.

34. Attached hereto as Exhibit GG is a true and correct copy of the August 28, 2001 e-mail from David Selby to Diethard Fohr marked with the bates number METCO0189075.

35. Attached hereto as Exhibit HH is a true and correct copy of the November 27, 2001 e-mail from Jan Reimers to MET marked with the bates numbers METCO032820 and DDX14.

36. Attached hereto as Exhibit II is a true and correct copy of the October 16, 2001 e-mail from Mark Reid to Blair Tweten marked with the bates numbers MOLI01947–2000 and DDX158.

37. Attached hereto as Exhibit JJ is a true and correct copy of excerpts from the presentation sent by E-One Moli to MET entitled *Li-ion Advantages* marked with the bates numbers METCO0025932–42 and DDX89.

38. Attached hereto as Exhibit KK is a true and correct copy of the MET presentation regarding E-One Moli's facilities marked with the bates numbers METCO0050079, METCO0050109–12.

39. Attached hereto as Exhibit LL is a true and correct copy of MET's October 29, 2001 forecast of Li-ion battery pack sales for 12, 14.4 and 18V packs marked with the bates number METCO448473.

40. Attached hereto as Exhibit MM is a true and correct copy of the October 30, 2001 e-mail from Jeffrey Zeiler to Blair Tweten marked with the bates number METCO0032807.

41. Attached hereto as Exhibit NN is a true and correct copy of the November 26,

2001 e-mail from Jan Reimers to MET marked with the bates numbers METCO044378 and DDX165.

42. Attached hereto as Exhibit OO is a true and correct copy of the December 6, 2001 project meeting minutes marked with the bates numbers METCO049774–76 and DDX44.

43. Attached hereto as Exhibit PP is a true and correct copy of the January 24, 2002 project meeting minutes marked with the bates numbers METCO0049741–44 and DDX48.

44. Attached hereto as Exhibit QQ is a true and correct copy of the April 4, 2002 project meeting minutes marked with the bates numbers METCO0184223 and DDX113 and DDX113A.

45. Attached hereto as Exhibit RR is a true and correct copy of the April 25, 2002 e-mail from Dennis Grzybowski to the Project 884 team marked with the bates numbers MOLI00429–496, DDX113 and DDX113A.

46. Attached hereto as Exhibit SS is a true and correct copy of the e-mail from Jeffrey Zeiler to the Project 884 team marked with the bates numbers MOLI0540–45, DDX115 and DDX115A.

47. Attached hereto as Exhibit TT is a true and correct copy of the May 3, 2002 e-mail from Jan Reimers to the Project 884 team marked with the bates numbers MOLI0527–28, DDX133 and DDX133A.

48. Attached hereto as Exhibit UU is a true and correct copy of the June 28, 2002 e-mail from Jeffrey Zeiler to the Project 884 team enclosing a “Project 884 Update” and marked with the bates numbers MOLI0670–80, DDX119 and DDX119A.

49. Attached hereto as Exhibit VV is a true and correct copy of the August 22, 2002 project meeting minutes marked with the bates numbers METCO049831–34 and DDX55.

50. Attached hereto as Exhibit WW is a true and correct copy of the September 18,

2002 e-mail from Gary Meyer to Project 884 Team marked with the bates numbers MOLI0801–06, DDX122 and DDX122A.

51. Attached hereto as Exhibit XX is a true and correct copy of the October 1, 2002 e-mail from Gary Meyer to Project 884 Team marked with the bates numbers MOLI0833–40, DDX124 and DDX124A.

52. Attached hereto as Exhibit YY is a true and correct copy of the October 2, 2002 e-mail from Jan Reimers to Project 884 Team marked with the bates numbers MOLI0856–58, DDX125 and DDX125A.

53. Attached hereto as Exhibit ZZ is a true and correct copy of the December 12, 2002 project meeting minutes marked with the bates numbers METCO029047 and DDX94.

54. Attached hereto as Exhibit AAA is a true and correct copy of the January 9, 2003 project meeting minutes marked with the bates numbers METCO123617 and DDX103.

55. Attached hereto as Exhibit BBB is a true and correct copy of the High Power Cell Progress Chart sent by Jan Reimers to MET and marked with the bates numbers METCO0112366 and DDX186.

56. Attached hereto as Exhibit CCC is a true and correct copy of the Declaration of Jay Rosenbecker and marked with the bates numbers METCO0348566–572.

57. Attached hereto as Exhibit DDD is a true and correct copy a list of all patent applications with accompanying earliest priority dates METCO025241–51.

58. Attached hereto as Exhibit EEE is a true and correct copy of a Quitclaim deed from E-One Moli to MET, and other assignments signed by the named inventor.

59. Attached hereto as Exhibit FFF is a true and correct copy of excerpts from the transcript of the June 28, 2017 deposition of David Selby.

60. Attached hereto as Exhibit GGG is a true and correct copy of an excerpt of MET's appeal brief marked with the bates numbers METCO0349784, 794 and DDX138.

61. Attached hereto as Exhibit HHH is a true and correct copy of MET test data dated May 14, 2002 and marked with the bates numbers DDX185 and DDX185A.

62. Attached hereto as Exhibit III is a true and correct copy of the July 1, 2002 e-mail from Dennis Grzybowski marked with the bates numbers DDX118 and MOLI0000681-695.

63. Attached hereto as Exhibit JJJ is a true and correct copy of the January 7, 2003 e-mail from Jan Reimers to Project 884 team marked with the bates numbers MOLI0001031-32 and DDX104.

64. Attached hereto as Exhibit KKK is a true and correct copy of the November 15, 2001 Project 884 team meeting minutes marked with the bates numbers DDX43, METCO0112735-37.

65. Attached hereto as Exhibit LLL is a true and correct copy of excerpts from MET's Third Supplemental Answers to Snap-on's First Set of Interrogatories.

66. Attached hereto as Exhibit MMM is a true and correct copy of MET's Second Supplemental Answer to Snap-on Interrogatory No. 5 at 19.

67. Attached hereto as Exhibit NNN is a true and correct copy of the license agreement between MET and Hitachi marked with the bates numbers METCO0156988-7010.

68. Attached hereto as Exhibit OOO is a true and correct copy of the license agreement between MET and Makita marked with the bates numbers METCO-SNAPON0002033-2081.

69. Attached hereto as Exhibit PPP is a true and correct copy of the license agreement between MET and Bosch marked with the bates numbers METCO0156957-983.



70. Attached hereto as Exhibit QQQ is a true and correct copy of an email chain between MET's Elizabeth Egasti Miller and a representative from Bosch marked with the bates numbers METCO0529014-020.

71. Attached hereto as Exhibit RRR is a true and correct copy of the September 3, 2015 Declaration of Elizabeth Egasti Miller.

72. Attached hereto as Exhibit SSS is a true and correct copy of the October 31, 2011 letter from Dyann L. Kostello to Irwin Shur marked with the bates number METCO00160214.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 30, 2017.

/s/ Andrew M. Meerkins